

## **REMARKS/ARGUMENTS**

### **1.) Claim Amendments**

The Applicants have herein amended claims 45-50, 54, 62, 74, 77, 79, 81-84, and 87; claims 56-57, 59, and 72-73 have been canceled without prejudice. Accordingly, upon entry of this Amendment, claims 45-55, 58-60, 62, 65-67, 69-77, 79, and 81-90 will remain pending in the Application. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

### **2.) Claim Rejections – 35 U.S.C. § 103(a)**

The Examiner rejected claims 45-50, 54-56, 60, 62, 65-67, 69-74, 77, 79, 81-84 and 87-90 under 35 U.S.C. § 103(a) as being unpatentable over Kinrot (US 6,574,193) in view of Nishio, et al. (US 6,192,039), or alternatively, Nishio in view of Kinrot. In response, Applicants have amended the independent claims to highlight the novel features of the present invention.

Initially, it is noted that the present invention is related to a specific procedure for traffic control in a communication network, namely, where two terminals are communicating with each other via a core network, monitoring the current maximum communication rate with the network for each terminal, comparing the two rates, and then setting the maximum communication rate for each terminal at less than or equal to the lowest compared rate. This solution is not found in the known prior art.

It is conceded that there are numerous approaches to network traffic control, but the claims as presently recited do not broadly read on all such methods. By the same token, Applicant respectfully suggests that the existence of many different approaches, in and of itself, does not render obvious any new approach that is suggested.

Regarding the cited art, it is noted that Kinrot addresses network congestion in ATM networks by ascertaining a "degree of circuit congestion" and adjusting variable encoders responsive to this value. (See Kinrot, Abstract; col. 3, lines 1-7.) The degree of congestion is determined for a "virtual circuit", preferably responsive to the status of a "cell queue" (col. 3 line 60 to col. 4, line 10). Kinrot presumes that the cell queues fill

responsive to a level of network congestion (col. 4, lines 57-59; col. 5 lines, 31-35). The procedure for ascertaining congestion based on queue levels is described in more detail in, for example, cols. 7 and 8. The encoding rate may be varied dynamically by comparing an instantaneous correction parameter  $B_{LIM}$  to a stress-based target bit rate  $B_{STR}$  (col. 8, line 60 to col. 9, line 35). (A great deal of Kinrot also discusses techniques for lower-rate encoding.)

As noted in the Office Action, however, Kinrot fails to disclose monitoring the availability of air interface resources, which are typically used by mobile (or wireless) terminals to access a network. For this reason, of course, Kinrot also fails to disclose comparing two (or more) air interface maximum information transmission rates, and also therefore fails to disclose setting a maximum communication rate based on this comparison. In short, Kinrot fails to disclose the distinguishing features of the present invention as they are now recited.

Nishio does not supply these missing features. Nishio, which focuses primarily on avoiding interruption or data loss during mobile terminal hand-over (see Nishio col. 1, lines 32-62), was cited generally for teaching “flow control” during this process. As with Kinrot, however, Nishio fails to disclose monitoring the availability of the air interface resources used by the (single, in Nishio) mobile terminal, and also fails to disclose comparing two (or more) air interface maximum information transmission rates, and also therefore fails to disclose setting a maximum communication rate based on this comparison. Again, these are the distinguishing features of the present invention. Even in combination with Kinrot, Nishio fails to teach or suggest these features.

It is noted that in the Nishio “third embodiment” (described at col. 12, line 41 to col. 19, line 20), suggests using a higher bit rate to empty the queues following hand-over, and also mentions allocating addition (or adequate) bandwidth for doing so. The off-hand suggestion (see col. 14, lines 29-31) that the higher bit rate should not exceed the allocated bandwidth, however, does not amount a suggestion to also incorporate all of the missing features of the present invention.

It might also be pointed out that Nishio uses the term “flow control” in a somewhat misleading manner (at least as is relevant to a comparison with the present invention). The flow control of Nishio is an attempt to avoid interruption of an ongoing

communication during hand-over (col. 1, lines 32-62, wherein it states "In order to eliminate the problems caused by the instantaneous break [during hand-over], it is necessary to improve not only the radio channel switching technique but also the flow control of the whole telecommunication system and to thus prevent data from being lost during the hand-over process.") This goal is (described to be) accomplished largely by queuing incoming cells just before hand-over and forwarding them once hand-over is accomplished (*see, for example*, col. 2, lines 2-8). Not only is this very different from the solution of the present invention, but it is only performed during the hand-over process.

In this light, it is difficult to see how it would occur to a skilled artisan to combine the teachings of Kinrot and Nishio at all, since there is no advantage to doing so, save in the aggregate. That is, Applicant respectfully suggests that the scheme of Nishio is not improved by the scheme of Kinrot, or vice versa. And if course even in combination they do not reach the present invention. Any improvement of one or the other to that end is found only in the present Application.

Various of the dependent claims, which are distinguishable from the cited prior art at least by virtue of their dependency, have been amended consistent with the amendments made to the independent claims. Claims 56 and 72-73 have been cancelled.

In light of the amendments to the claims and the above remarks, Applicants respectfully suggest that this ground for rejection has been overcome.

The Examiner also rejected claims 51, 57, 75 and 85 under 35 U.S.C. § 103(a) as being unpatentable over Kinrot in view of Nishio, further in view of ITU-T Recommendation I.366.1, Segmentation and Reassembly Service Specific Convergence Sublayer for the AAL Type 2 ("ITU-T"). In response, Applicants state that claim 57 has been canceled, and that claims 51, 75, and 85 are dependent from a respective one of independent claims 54, 74, or 81. As described above, Applicants have amended the independent claims and believe they are now clearly distinguishable from Kinrot and Nishio. ITU-T does not add any of the features missing from those references, and so claims 51, 75, and 85 are distinguishable from the cited prior art at least by virtue of their dependency.

In light of the amendments to the claims and the above remarks, Applicants respectfully suggest that this ground for rejection has also been overcome.

The Examiner rejected claims 52, 53, 58, 59, 76 and 86 under 35 U.S.C. § 103(a) as being unpatentable over Kinrot in view of Nishio, further in view of Brueckheimer, et al. (US 6,574,224). In response, Applicants state that claim 59 has been canceled, and that claims 52-53, 58, 76, and 86 are dependent from a respective one of independent claims 54, 74, or 81. As described above, Applicants have amended the independent claims and believe they are now clearly distinguishable from Kinrot and Nishio. Neither ITU-T nor Brueckheimer adds any of the features missing from those references, and so claims 52-53, 58, 76, and 86 are distinguishable from the cited prior art at least by virtue of their dependency,

In light of the amendments to the claims and the above remarks, Applicants respectfully suggest that this ground for rejection has also been overcome.

## CONCLUSION

In view of the foregoing remarks, the Applicants believe all of the claims currently pending in the Application to be in a condition for allowance. The Applicants, therefore, respectfully request that the Examiner withdraw all rejections and issue a Notice of Allowance for all pending claims.

The Applicants request a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,

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